UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte STEPHEN G. PERLMAN, BRIAN LANIER and AIN MCKENDRICK

Appeal No. 2006-1573
Application No. 09/818,175

ON BRIEF

Before THOMAS, HAIRSTON, and JERRY SMITH, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 30.

The disclosed invention relates to a method and system for selecting a multimedia program based upon how frequently the multimedia program has been played by an entertainment system.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for selecting a multimedia program within an entertainment system, comprising:
detecting a first word of a multimedia program entered by a user with a character-entry device; and

providing a potential list of second words for the multimedia program to said user, said potential list of second words selected based, at least in part, on how frequently a multimedia program whose name includes one of the second words has been played by the entertainment system.

The references relied on by the examiner are:

Beach et al. (Beach)	2003/0014753	Jan. 16. 2003 (effective filing date Dec. 21, 1999)
Ortega et al. (Ortega)	6,564,213	May 13, 2003 (filed Apr. 18, 2000)

Claims 1 through 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ortega in view of Beach.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the obviousness rejection of claims 1 through 30.

We agree with the examiner's findings (answer, pages 3 and 4) that "Ortega discloses a method, system, and article of manufacture that detects a first word entered by a user with a character-entry device (column 3: lines 12-19) and provides a potential list of second words to the user (Figure 2B)," that the graphical user interface in Ortega has "text entry boxes and lists of potential words that can be used [to] complete desired titles," that the potential list of second words "is advantageously ordered according to the popularity of the corresponding items," that "Ortega explains in the abstract and in column 2: lines 31-35 that the titles can be ordered according to how frequently the items are accessed or viewed by users," and "that the titles displayed in the list of potential

second words is based on how frequently the corresponding items are accessed or viewed."

Appellants argue (brief, pages 5 and 6) that the Ortega system takes into account the popularity of a book, music, or an electronic device to a plurality of users, as opposed to a single user, when determining the popularity or frequency of purchase of the book, music or electronic device. Appellants' argument to the contrary notwithstanding, nothing in the claims on appeal precludes the system and method described by Ortega from determining the frequency of viewing or purchase of a particular piece of music by a plurality of users. The claims on appeal state that the program has been played by the entertainment system, and not by the user.

Appellants argue (brief, page 4) "while Ortega's system might be used to search for a multimedia program for purchase (Ortega 5:55-65), Ortega's system does not play a multimedia program." We disagree. Ortega specifically states that the item of interest (e.g., music by a certain artist) is the "best selling or most frequently viewed" piece of music (Abstract; column 5, lines 1, 2 and 55 through 59; column 8, lines 47 through 57). Music that is capable of being "frequently viewed" is in a "multimedia program" format (i.e., audio as well as visual) that is played on an entertainment system (e.g., a DVD player or VCR).

Thus, we find that Ortega describes all of the limitations of claims 1, 11 and 21. Accordingly, we will sustain the obviousness rejection of claims 1, 11 and 21. In affirming a multiple reference rejection under 35 U.S.C. § 103, the Board may rely on one reference alone without designating it as a new ground of rejection. In re Bush, 296 F.2d 491, 496, 131 USPQ 263, 266-67 (CCPA 1961); In re Boyer, 363 F.2d 455, 458,

n.2, 150 USPQ 441, 444, n.2 (CCPA 1966). The entertainment system teachings of Beach are merely cumulative to the teachings of Ortega. The obviousness rejection of claims 2 through 10, 12 through 20 and 22 through 30 is likewise sustained because appellants have not presented any patentability arguments for these claims.

DECISION

The decision of the examiner rejecting claims 1 through 30 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

James D. Thomas)
Administrative Patent Judge)
)
)
) BOARD OF PATENT
Kenneth W. Hairston)
Administrative Patent Judge) APPEALS AND
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) INTERFERENCES
Jerry Smith)
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